



**Response to Question for the Record from Congresswoman Walorski to Nina E. Olson,  
Executive Director, Center for Taxpayer Rights, for Hearing on Minding the Tax Gap:  
Improving Tax Administration for the 21st Century, 10 June 2021**

**Question #1:**

Ms. Olson, I'd like to highlight an issue that continues to be a serious concern for my constituents in Indiana's Second District-receiving tax refunds in a timely fashion. Our district office caseworkers continue to be inundated with inquiries from Hoosiers who have yet to receive their 2020 tax refund. Many of these situations are urgent and these individuals are counting on their tax refund to help them put food on the table or make car payments. I fully recognize the truly challenging circumstances that the pandemic has caused, and the IRS has of course felt those adverse effects too. However, more must be done to get tax refunds out the door as quickly as possible and help America put COVID in the rearview mirror. Ms. Olson, are you able to share any recommendations that the IRS could implement to help alleviate taxpayer concerns regarding the receipt of their tax refund?

**Answer:**

As I discussed in my written testimony, there are many causes for refunds being delayed in the processing of tax returns. In a normal filing season, refunds may be stopped because of suspicion of identity theft, or omitted or understated wage income or overstated tax withholding. They may be stopped for "math error" processing for any number of reasons, including incorrect social security numbers. As the National Taxpayer Advocate, I regularly focused on the high "false positive rates" of these programs. That is, the IRS froze many more returns that ultimately turned out to be legitimate refund requests than were fraudulent. For example, for the 2020 filing season, the IRS refund fraud filters froze 3.2 million individual income tax returns on suspicion of refund fraud. *Of those 3.2 million refund suspended returns, 66 percent – almost two-thirds -- were false positives, meaning they were legitimate refund requests.* For a quarter of the frozen returns, it took the IRS longer than 56 days to release them to normal processing.

This year is a far from normal filing season. The IRS is grappling with reconciling various new provisions including the Rebate Recovery Credit, exclusion of unemployment benefits from income, and the "look-back" provision for the Earned Income Tax Credit. These provisions have resulted in many more returns being suspended and requiring some form of manual review before processing, posting, and refund issuance can resume.

The National Taxpayer Advocate has reported that for Filing Season 2021, through May 21, 2021, the IRS received 148 million individual income tax returns and processed 135.7 million such returns. The remaining 12.3 million were stuck in various stages of review. This number under review is almost twice the number of returns unprocessed at the end of the 2020 filing season (6.3 million were suspended as of July 15, 2020). Elsewhere, the National Taxpayer Advocate has reported that as of May 21, 2021, the IRS had over 35 million individual and business tax returns either suspended or “in process” but requiring manual processing before the return can move along and refunds issued.

Included in these “frozen” returns are 9.8 million individual tax returns sitting in the Error Resolution System (ERS), up 544 percent from the 2020 filing season, and 2.1 million individual income tax returns still suspended for Identity verification, up 91 percent from the 2020 filing season.

Trying to get through to the IRS to resolve these issues is nearly impossible. During the 2021 filing season, the IRS received 167 million calls on all its lines, up 294 percent from the year before; only 15.67 million of those calls reached a live assistant. *On the 1040 phone line, which is the main phone number for individual income tax assistance, the IRS received 85 million calls, up 978 percent from the 2020 filing season, with only 3 percent reaching a live assistant.*

If a taxpayer’s refund return is selected for identity verification (on suspicion of identity theft), the taxpayer is required to verify their identity through an online tool, or by telephone, or at an appointment at the Taxpayer Assistance Center (TAC). Taxpayers have reported being unable to verify online, unable to get through to the phone verification system, unable to reach the TAC appointment line, and if they are able to get a TAC appointment, it is 9 weeks later. *The phone identity verification line received over 6 million calls this filing season, with a 19 percent level of service, meaning 4 out of 5 calls could not get through to verify their identity and get their refund released.*

What can be done to fix this? First, technology, artificial intelligence, and data science can play an important role. Many of the IRS’ fraud detection and questionable refund filters are rule-based. That is, a fixed rule is broken, then a return is selected and must be manually reviewed; often the taxpayer must supply additional information. From year to year, the IRS does not do a good job of learning from the cases where its filters incorrectly identified a return. The IRS needs to work with data scientists and artificial intelligence experts to design a fraud/error detection system that is not rule-based but rather learns from the returns that actually turned out to be fraudulent, as well as those that were frozen and ultimately determined to be legitimate. In short, IRS systems need a continuous feedback loop so it minimizes the false positive rate and improves on its initial selection of returns. To date, the IRS has refused to set goals for reducing the false positive rate on its fraud detection system. The data cited above show the urgent need for the IRS to set these goals and act on them. Congress should require it to do so.

Second, the IRS can use programming to minimize taxpayer errors. In the 2009 filing season, in which taxpayers were reporting the Economic Stimulus Payments (ESPs) they received in 2008, the IRS had a system by which taxpayers (and their preparers) could look up the amount of ESP they received. The IRS did not replicate this system for the 2021 filing season. Thus, according to the National Taxpayer Advocate, 5 million returns were suspended in Submission Processing to reconcile Economic Impact Payments with Rebate Recovery Credits. *For the 2022 filing season, Congress should require the IRS to create a similar look-up system for the Advanced Child Tax Credit; otherwise we will have the same return backlog in 2022 as we have today.*

The IRS also could program, as part of the submission processing pipeline, the ability for the system to systemically look back to the 2019 modified adjusted gross income, where a taxpayer claimed the “look back” rule for EITC eligibility. Instead, millions of returns were suspended for manual review because the IRS did not program this. While I realize this may not have been possible for the 2021 filing season, given the late enactment of the look back provision, *if Congress makes the EITC look back rule permanent, it should require the IRS to systemically check for eligibility.* This approach not only reduces the number of returns that must be manually verified but will also identify returns on which the look back was not but should have been claimed.

On top of all this, the Taxpayer Advocate Service (TAS) has at the top of its homepage on its website a statement as follows: “Refund Delayed? Our ability to help may be limited.” TAS is supposed to be the safety net for taxpayers experiencing significant hardship; yet TAS is unavailable for most taxpayers experiencing refund delays this year. This is unacceptable, and a violation of the *right to a fair and just tax system*. I do not know why TAS has decided it is unable to help these taxpayers; what I do know is that taxpayers are losing faith in TAS.

Third and most importantly, the IRS taxpayer service functions need a significant and steady funding increase. Congress should scrutinize the IRS projections for the number of calls it receives. When refunds are frozen, online services are just not satisfactory; taxpayers want to talk to a live human being. Congress should require the IRS to tell it how many assistors will be required to answer 85 percent of the calls coming in. Congress should require the IRS to project how many returns it expects to suspend for identity theft and questionable refund issues, and what level of staffing it needs in ERS and the identity theft/refund fraud units to resolve those issues within 14 days. Congress should require the National Taxpayer Advocate to project the number of cases they would receive if they were willing to assist taxpayers with refund issues. With all of this information, Congress can then appropriate the funds necessary to get staffing levels up in all these functions so U.S. taxpayers get the assistance and service they deserve.